



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

FILE COPY

ACT/045/017

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December 8, 1986

TO: Sue Linner, Permit Supervisor  
FROM: Randy Harden, Reclamation Engineer  
RE: Self Bonding Agreement, Barrick Mercur Mine, ACT/045/017,  
Tooele County, Utah

Attached are comments provided by Ralph Aillo, Oil and Gas Auditor with the Division, with regard to Mercur's self bond and self bonding requirements in general.

It is evident that the oil and gas auditors cannot determine sufficiency of the bonding form and agreement until the Division develops policies and guidelines regarding self bonding. Many of the recommendations provided in the review have not been accomplished by the Division in the past and will require changes in or formation of a policy by the Division with regard to self bonding.

In the interim, a decision must be made in order to approve or reject the self bonding proposal by Barrick. To date, the information requested by the Division and the response by the Operator with regard to self bonding has been sufficient and satisfactory to meet the requirements of the Division for self bonding. In consideration of past performance with regard to Mercur, it could be recommended that the self bonding agreement for Mercur be accepted at this time to allow operation of the facilities without further delay. This recommendation for approval must be made by and on an administrative level to the Board due to the amount of risk (\$6,657,000) that is involved in approving this self bonding agreement.

However, at the earliest possible date, the Division must develop a more direct and concise policy regarding the review and approval of self bonding applications and approval for both coal and non-coal mining operations. When such policy has been determined, the Division should immediately review Mercur's bond and all other self bonding agreements within the Division in order to evaluate those risks involved in self bonding and ensure that the State and the Operator is sufficiently protected with regard to bonding requirements.

jvb  
cc: L. Braxton  
K. May  
P. Grubaugh-Littig  
F. Filas

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Subject: Barrick Mercur Request For Bonding *BR*

I have reviewed the 1985 audited statement of Barrick Mercur and the 1985 Securities and Exchange Commission report for the parent, American Barrick Resources Corporation and offer the following comments or personal observations.

Self Bonding and Indemnity Agreement

Page two of the agreement reads "WHEREAS, American Barrick Resources Corporation meets the financial criteria for self bonding (as shown in the attached financial sheet); and . . . NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Barrick does hereby agree to be held and bonds to the Board for the sum of \$6,657,000.00 . . ."

What "other valuable consideration" has been given to the Division for the self bond?

If American Barrick sells the Mercur mine to a third party, does American Barrick retain a liability to pay for reclamation in the event that the purchaser defaults or is unable to provide a bond?

Page five of the agreement indicates that the agreement may be terminated upon 90 days prior written notice by the Board. Barrick will then have 90 days to obtain an alternate form of bonding to secure reclamation. If the Board should serve such notice and Barrick is unwilling or unable to provide alternative bonding, what remedies are available to the Division for reclamation of the land without substantial cost to the State?

The S.E.C. report indicates that a subsidiary of American Barrick, Muskingum Mining Incorporated, posted reclamation security bonds with the State of Ohio in the amounts of \$9,952,000 and \$11,651,000 respectively for the years of 1985 and 1984. I wonder what form of bonding was used? The report does indicate that some obligations are subordinated to this bond. It would appear to me, that a subordination clause in the current Self Bonding and Indemnity Agreement would be appropriate. In the event of default, such a clause could provide for some financial recovery and funds for reclamation work.

The liabilities of both Barrick Mercur and American Barrick reflect the borrowing of 77000 ounces of gold by Barrick Mercur. The repayment is to come from future gold production. This loan has been secured with the assets of Barrick Mercur and the guarantee of American Barrick

The American Barrick statement reflects an additional \$44,516,000 liability under deferred income to the Gold Company of America. This represents a contractual prepayment for gold to be produced from the Camflo Mine during the next few years. The Gold Company of America is a limited partnership formed by Barrick. Barrick Minerals is the general partner.



It is not clear if the 77000 ounces of gold borrowed by Mercur came from a company with an arm's length transaction or not.

Barrick Mercur operations are currently confined to oxidized ore. The oxidized ore provides Mercur with a maximized recovery rate and lower operating costs. The oxidized ore supply in 1985 was estimated to be a 2 1/2 to 3 1/2 year supply. After depletion of the oxidized ore operations will center on the milling of refractory ore currently being stockpiled. I would expect to see the profitability decline at this time because the gold will have a lower recovery rate and higher production costs.

The SEC statement indicates that substantial numbers of transactions have occurred with companies which have common shareholders, officers, directors, or are controlled by companies related with American. With these circumstances, I believe that it would be in order to request that Peter Munk, Chairman, Chief Executive Officer and Director, along with two other executive officers or directors of American Barrick provide personal guarantees. The concept will undoubtedly meet with resistance, but it is an approach used by financial institutions where security is a problem. In this particular instance, I would suspect security for the bond would present some form of a problem because the assets of Barrick Mercur are already pledged. Assets of American Barrick are also pledged and the guarantees extended by American Barrick to affiliates are currently extensive.

The June 30, 1986 interm report to stockholders has been provided, but interm reports of this nature are broad and very general with information. I would recommend that American Barrick provide the Division with a more detailed set of statements on the Barrick Mercur and American Barrick.

Before extending the bonding, I would encourage exploration of the following areas:

1. Self bonding is an attractive proposition for the operator because it offers a financial benefit to the operator but provides the State with little more than a contingent liability. Larger prudent operators will be able to perform required reclamation work upon completion of a mining operation. When an operator voluntarily or involuntarily goes out of business the bonding becomes important to the Division. It must be recognized that when this happens, the operator may not be able to financially honor the bond, or the assets he may have had will be pledged to others and there will be no funds for reclamation after liquidation of assets. One possible solution to insure some funds would be available for reclamation is to request the operator to deposit a discounted, amount which upon maturity of the self bonding date would have grown to some designated percentage of the anticipated reclamation cost.

2. At the end of each year, require that companies which self bond deposit the current year's reclamation reserve, or some specified portion of the reserve, in a trust account. This fund could then be used for reclamation upon termination of mining activity.



3. Charge a non-refundable fee for self bonding. Such fee would result in a smaller cash outlay to the operator than a bond and the fund could be applied toward reclamation of any self bonded operation which defaulted on the bond.

4. Attempt to have other liabilities of Barrick subordinated to the self bond. In the event of bankruptcy, the bond would then have preference over claims of others.

5. Within the body of the self bonding agreement, spell out the remedies the Division has in the event of default of a self bond and define the action to be taken by the Division if self bonding is refused and alternative bonding cannot be obtained. This would eliminate many questions for Division staff in the event of default.

6. Determine if there is a dollar limit beyond which the Division does not wish to permit self bonding, then determine if there is a dollar limit below which the Division does not wish to consider self bonding. Another alternative to consider is the requirement of a surety bond for the first \$XXX then permit self bonding beyond that amount.